1060

SUPREME COURT OF THE UNITED STATES.

No. 43.

THE UNITED STATES, APPELLANTS,

VERSUS

WILLIAM MILLS'S HEIRS.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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1950.

Before the Honorable Robert Raymond Reid, judge of the superior court for the districtof East Florida, and specially authorized by law to receive and adjudicate claims and titles to land in the district of East Florida.

SUPERIOR COURT—EAST FLORIDA.

Be it remembered, that on the seventeenth day of April, in the year of our Lord one thousand eight hundred and twenty-nine, Mary A. Mills, widow of William J. Mills, deceased, and William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of the said William J. Mills, deceased, brought and filed in the clerk's office of the said court, their petition or claim for certain land therein mentioned; which said petition or claim is in the following words and figures, viz:

PETITION TO THE COURT.—Petition to the Court.

To the honorable Joseph L. Smith, judge of the superior court for the eastern district of Florida.

The petition of Mary A. Mills, widow of William Mills, deceased, and William J. Mills, Charles F. Mills, Mary Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of the said William Mills,

Respectfully showeth:

That your petitioners claim title to a tract of land, situated in this district, at the east side of the river St. Johns, at a place called Buffalo Bluff, about two miles below the former plantation and stores of Panton, Leslie, & Co. Said tract contains two miles on each wind, so that it forms a square of four miles, as appears by the translation of the grant thereof, hereunto annexed, marked exhibit A, which your petitioners pray may be taken as a part of this their petition; which said tract of land was granted to the said William Mills, by the Spanish Government of East Florida, under the administration or Governor Coppinger, on the tenth day of April, in the year of our Lord one thousand eight hundred and seventeen.

And your petitioners further show, that in virtue of the said grant, the said William Mills, soon after the date of the same, entered upon and took possession of the land granted in the situation mentioned in said grant, and was preparing to build thereon a water saw-mill, agreeably to the condition of said grant, where the said William Mills in the furtherance of that object expended large sums of money, but was deterred therefrom in consequence of the invasion of that part of the province of East Florida, by the force under one George McGregor, all of which your petitioners will show and prove on the hearing of this petition.

And your petitioners further show, that their claim to said land was submitted to the examination of the board of commissioners, appointed under and in virtue of an act of Congress of the United States of America, entitled, "An act amending, and supplementary to, an act for ascertaining claims and titles to lands in the Territory of Florida, and to provide for the survey and disposal of the public lands in Florida;" passed the third day of March, in the year of our Lord, one thousand eight hundred and twenty-three, and has by the said commissioners been reported on unfavorably; but your petitioners are advised that the report of the said commissioners is contrary to law, justice, and the evidence produced in the case.

And your petitioners further show, that the said tract of land is situated as aforesaid, within the district of East Florida, and within the jurisdiction of this honorable court, is embraced by the treaty between Spain and the United States, of twenty-second of February, in the year of our Lord one thousand eight hundred and nineteen; that his claim to said land has not been decided or finally settled under the provisions of the act of Congress of the United States, entitled, "An act, supplementary to the several acts, providing for the settlement and confirmation of private land claims in Florida," passed the twenty-third day of May, in the year of our Lord one thousand eight hundred and twenty-eight, or of any of the acts to which the said last recited act is supplementary; that the tract of land so claimed by your petitioners, contain a greater quantity of land than the commissioners appointed under the said act of Congress were authorized to decide, and above the quantity confirmed by the aforementioned act of Congress, passed the twenty-third day of May, one thousand eight hundred and twenty-eight; that the said claim of your petitioners to the said tract of land, has not been reported by the said commissioners, appointed under any of the aforesaid acts of Congress, or any other, or by the register and receiver acting as such under the several acts of Congress, in such case made and provided, as antidated or forged; and that the said claim hath not been annulled by the aforesaid treaty between Spain and the United States, nor by the decree ratifying the same.

Wherefore, your petitioners pray that the validity of their claim to the said land, may be inquired into and decided upon by this honorable court, and that in pursuance of an act of Congress, for that purpose made and provided, the United States be made a party to this petition, and that process in this behalf do forthwith issue against Thomas Douglas, Esquire, the attorney of the United States for this district, according to the provisions of said act of Congress above alluded to.

And your petitioners will ever pray, &c.

WILLIAM J. MILLS,
Attorney in fact for Mary A. Mills, and the heirs of William Mills, deceased.

B. A. PUTNAM,
Counsel for Petitioners.

Exhibit A.

EXHIAIT A. MEMORIAL OF AND GRANT TO W. MILLS,

Annexed to the foreging petition, being certified translation of the memorial of William Mills, and the grant of the Governor thereon, made from a copy of the original, certified by Antonio Alvarez, keeper of the public archives of East Florida, and offered and received in evidence in this cause at the hearing thereof.

EXHIBIT A. MEMORIAL OF AND GRANT TO WILLIAM MILLS.

[*Translation.*]

His excellency the Governor:

William Mills, an inhabitant of Fernandina, with due respect to your excellency, represents, that, in the year 1805, he obtained from the Government permission to erect a water saw-mill, in the place called Mulberry Branch, near the head of Matanzas river, the certificate of which he has mislaid, but the original exists in the archives of this city; and after having erected the said building it was burnt by the rebels in the sedition which took place in the year 1812, as is of public notoriety; and wishing to build another saw-mill east of the river St. Johns, in a place called Buffalo Bluff, about two miles below the plantation and stores of the house of Panton, Leslie, & Co. kept by them for their trade with the Indians.

Therefore your petitioner supplicates your excellency to grant him a tract of two miles square, with the title to property to it, in order that he may carry his purpose into effect, as he had not obtained the title of property to the tract on which he erected the mill aforesaid, and in consequence renounces to any right he might have had to it; this favor he hopes to receive from the goodness of your excellency.

Fernandina, 17th March, 1817.

WILLIAM MILLS.

Decree.

St. Augustine, 10th of April, 1817. The permission is hereby granted, without prejudice of a third party, to the petitioner to erect a water saw-mill on the river St. Johns, on the east side thereof, and in the place called Buffalo Bluff, about two miles below the plantation and stores of Panton, Leslie, & Co. under the precise condition that until he carries said work into effect, the grant to the land will be null; said tract will contain two miles on each wind, so that it may form a square of four miles, in order that he may have the benefit of the timber thereof, and it is prohibited to any other person to make use of the same. It being well understood that unless said machinery be built and erected within the term of six months from this date, this favor will be null and of no value, as it can never be under-

stood to have been granted with any other view but that of protecting the inhabitant settlers and stimulating them to industry; for the known advantages which result from it to the province, and consequently to the interests of the king, and as a security to the interested party, let the corresponding certificate be issued to him in due form from this Secretary's office.

COPPINGFR.

The certificate was issued.

AGUILAR.

A copy of the foregoing petition and exhibit, with a citation thereto annexed, was delivered to the Marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon, is in the words and figures following to wit: "Executed 30th April, 1829, by serving a copy on Thomas Douglas, Esq United States Attorney."

"WATERS SMITH,
Marshal."

And afterwards, to wit, on the second day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esq. attorney of the United States, for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

ANSWER OF THE UNITED STATES ATTORNEY.

SUPERIOR COURT, *May Term*, 1829.

THE UNITED STATES OF AMERICA
vs.
MARY MILLS, AND OTHERS.

The answer of Thomas Douglas, United States attorney, for the district of East Florida, to the petition or bill of complaint of Mary Mills, widow of William Mills, deceased, and William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills and James G. Mills, who claim as heirs of the said William Mills, the said attorney in the name and for, and on behalf of the same United States, saving and reserving to them now and at all times hereafter, all and all manner of benefit of exception, to the manifold errors, defects and irregularities in the said petition or bill of complaint contained, for answer thereunto, or unto so much thereof, as it is material and necessary for them to answer unto, answereth and saith, that he has no knowledge of any such grant of lands having been made to the said William Mills, by the Spanish Government of East Florida, under the administration of Governor Coppinger, on the tenth day of

April, in the year of our Lord, one thousand eight hundred and seventeen, (or at any other time) as is alleged, set forth, and described in the said petition or bill of complaint, nor has he any knowledge of the said William Mills ever having been in possession of the lands, in the said supposed grant mentioned, or of the said William Mills ever having expended any sum or sums of money whatever in prepairing to build a water saw-mill on said land, or of his ever having been detained from building the said mill at any time, in consequence of the invasion of that part of the said province of East Florida by the forces under one George McGregor, as the said petitioners, in their said petition or bill of complaint, have thereof alleged; and cannot therefore either admit, or deny the same; but respectfully prays this honorable court to require of the said petitioners due proof of the making and execution of the said supposed grant, and of all the other matters and things in the said petition or bill of complaint alleged and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent admits, that the claim of *of* the said petitioners for said tract of land, was submitted to the examination of the board of commissioners, in said petition or bill of complaint mentioned; and that said commissioners reported unfavorably thereon, as will more fully appear by reference to their report thereon, a copy of which is hereunto annexed, and made a part of this answer as exhibit A, and is taken from the 16th page of the report of said board, for 1827. But this respondent denies that the said report of the commissioners aforesaid, is contrary to law or justice, or to the evidence produced in the case, and avers that if any such grant of lands was ever made by the said Spanish Government, under the administration of the said Governor Coppinger to the said William Mills, as is in the said petition or bill of complaint alleged, which is not admitted, it was made contrary to, and in violation of, the laws ordinances, and royal regulations of the Government of Spain aforesaid, providing for the granting of lands in the said province of East Florida, in which said province, the said tracts of land are situated; and without any power or authority on the part of the said Spanish Government of East Florida, under the administration of Governor Coppinger to make it; all of which will more fully appear by reference to the said laws, ordinances, and royal regulations; which this respondent prays leave to introduce and read on the hearing of this cause. And this respondent admits that he has heard, and believes, that the said William Mills, after the date of the said supposed grant, departed this life; but whether the said petitioners are the lawful heirs of the said William Mills, this respondent does not know, except from report, and cannot either admit or deny the same; but respectfully requires proof thereof.

And this respondent farther avers, that the said supposed grant, if made as aforesaid, was made upon the express condition, that unless the said mill (or machinery as it is expressed in the said supposed grant) should be built and erected within the term of six months from the date of the said supposed grant, the said grant was to be

null and void, and of no value whatever; and it was farther expressly understood to have been granted with no other view, but that of protecting the inhabitant settlers, and stimulating them to industry; as will fully appear by reference to exhibit A, to the said petition or bill of complaint annexed. And this respondent farther avers, that the said William Mills, in his lifetime, did not, nor did the said petitioners, or either of them, build and erect the said mill (or machinery) within the said period of six months from the date of the said supposed grant; nor have they or either of them, built and erected the same to this day; but have always hitherto wholly neglected and refused, and still do neglect and refuse, to build and erect the same; whereby the said supposed grant, if any such was ever made, has become and is wholly null and void, and of no value whatever. And farther, that if the said supposed grant was made, as is alleged, and the said Spanish Government of East Florida, under the administration of Governor Coppinger, had been invested with competent powers to make it, the express condition aforesaid upon which it was made, was the act of a sovereign, and it is not a matter for judicial inquiry, whether any circumstances have occurred to excuse a compliance with that condition, but it was competent only to the sovereign who had imposed the *the* said condition to release it, and now to the sovereign power alone of the United States, who have taken under the treaty in the said petition or bill of complaint mentioned, the place of Spain, does the authority rest to decide whether any circumstances have occurred to excuse a compliance with that condition, or to release it. And this respondent farther avers, that at the time when the said supposed grant is alleged to have been made, it was, and for a long space of time had been, the fixed and settled policy of the Government of Spain to parcel out its colonial domain, with reference to the sole objects of increasing the population of its provinces, and of benefitting its indigent subjects; and that, according to said policy, grants for the purpose of speculation were never tolerated by said Government, and that said grant was obtained (if it was obtained at all) for purpose of speculation only.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges, by them in and about the defence of this suit, paid, laid out and expended, may be adjudged and decreed to them, &c.

THOMAS DOUGLAS,
United States Attorney, &c.

EXHIBIT A, TO SAID ANSWER.

Exhibit A—annexed to the said answer.

The next claim in point of time is that of William Mills for 16,000 acres of land. In January, 1804, he applied, as do the rest, by memorial. It is his intention, he says, to build a water saw mill, and he

asks for the necessary land, on a vacant place, on Mulberry creek, granting him also the use of the pine land, for the supply of said mill. On the 4th January 1805, one year after, Governor White says, "he may build a mill," and as respects the cutting of timber there, will be issued to him the permission to do so on vacant lands;" and upon those papers the claimant demands sixteen thousand acres of land. It is needless to say one single word on a subject like this. It is our present object to vindicate the Governors from the charge of violating the law, under which they acted. They could not make a grant of this kind, and with one single exception, of Governor Coppinger, they never have. In this case it is our duty to observe, that four witnesses have been introduced to prove that the mill, on this tract, was built and in operation from twelve to nineteen years ago; but this cannot vary the principle of the decision; if it demanded nothing more than the right to cut timber, if nothing more was granted, or could be enjoyed, when the mill was in the full tide of successful operation, surely now, there is no just claim for sixteen thousand acres of land, unless it be that the loss of the mill is the acquisition of the soil; this too, must be rejected without reference to the powers of the Governor.

And afterwards, to wit, on the third day of August, in the year of our Lord one thousand eight hundred and thirty, Thomas Douglas, Esquire, attorney of the United States for the district aforesaid, brought and filed in the clerk's office aforesaid, his amendment to the foregoing answer; which said amendment is in the words and figures following, to wit:

AMENDMENT TO ANSWER OF U. S. ATTORNEY.

Amendment to the answer.

THE UNITED STATES, *ads.* MARY A. MILLS, AND OTHERS } Claim for 10,240 acres of land.

And the said respondent further saith, that Don Ruperto Saavedra, "senor auditor of war" of said province, on the 27th day of Octobor, in the year 1818, at the instance of Don Jose Coppinger, Governor, &c. as aforesaid, made an official report to the said Governor Coppinger, upon various matters relative to grants and concessions of land, before that time made in said province; and, amongst other things, upon the right of those persons, to whom grants or concessions of lands had been made upon condition of their establishing mechanical works, (such as factories, saw mills, &c.) The 8th article of which said report is in substance as follows, to wit: the assignment of large portions of territory, which have been made for the establishment of factories, to persons who did not then comply, nor have since presented themselves to establish their mechanical works, ought to be considered without any right or value; and said lands declared perfectly free, that they may revert to the class of public lands; in

this particular, also, the conditions for which they have been granted, should be referred to; and in case any of them should have no limits, an equitable time be specified for the establishment of the works, which having passed without carrying them into effect, they be declared vacant." And this respondent saith, that the said Don Jose Coppinger, Governor, &c. as aforesaid, afterwards, to wit, on the 29th day of the same month of October, in the year 1818, by his decree of that date, adopted and confirmed the said report, and ordered, directed, and commanded, that it should be complied with, assigning the term of six months, from the date last aforesaid, for the establishment of the mechanical works, referred to in the 8th article thereof, on the terms expressed therein; all of which will more fully appear, by reference to the said report and decree, as published in White's Compilation, at page 250 to 253, which this respondent prays leave to introduce and read on the hearing of this cause. And this respondent further saith, that neither the said William Mills, nor the said petitioners, or either of them, did build or establish the said saw-mill within the said term of six months; but that they, and each, and all of them, wholly failed and neglected so to do; and that all the right and title of the said William Mills, and of the said petitioners, and of each, and all of them, in and to the said tract of land, (if any such right or title, they, or either of them, ever had) under the said supposed concession, was entirely annulled and taken away; (and that the said grant or concession was entirely set aside) by virtue of said decree, so made as aforesaid, and that the said lands became and were perfectly free, and reverted to the class of public lands at the expiration of the said term of six months.

And this respondent further saith, that the same Ruperto Saavedra, "senor auditor of war" as aforesaid, in another official report made by him upon the same subjects, at the instance of the same Governor Coppinger, on the 18th day of January 1819, amongst other things, reported in substance as follows, to wit: Although no royal order, nor the regulations speaks of the concessions of lands for the establishment of mechanical works, it is very obvious that it being the will of his majesty to improve the province, which has taken so much interest in dispensing, for the purpose, copious favors, the Governors had the privilege of granting lands, for the establishment of said works, with the same inducement of proprietorship, to all those who contributed by their expenditures to works of so much utility to the improvement of industry; nevertheless, it is certain that many individuals, who have obtained such concessions, have remained in inaction, without having for so long a period advanced the establishment of said works, it appears just that such concessions, which have remained so long in inactivity, should be declared null and of no effect; but not so with those who have advanced the establishment of their works since, by their industry and expenditures; they have made themselves entitled to every protection to animate their perseverance. And this respondent further saith, that on the same day and year last aforesaid, the said Don Jose Coppinger, Governor, &c. as aforesaid, adopted and confirmed the said report, and by his decree of the same

date, ordered, directed, and commanded, that it should be complied with, as will more fully appear by reference to the said report and decree last above specified, as published in the compilation aforesaid.

And this respondent further saith, that at the time last above mentioned, neither the said William Mills, nor the said petitioners, nor either of them, had advanced the establishment of the said saw mill in any manner whatever, (as appears by the showing of the petitioners themselves) and that the said supposed grant or concession, (if any such was ever made) was entirely annulled and set aside, by virtue of the decree last above specified, if indeed it had not before that time became utterly null and void.

THOS. DOUGLAS,
United States Attorney.

And afterwards, to wit, on the seventeenth day of July in the year of our Lord one thousand eight hundred and thirty-three, the said claimants by their *by their* counsel brought and filed in the clerk's office aforesaid, the replication which is in the words and figures following, to wit:

REPLICATION.

SUPERIOR COURT—*East Florida.*

MARY A. MILLS, AND OTHERS, *vs.* THE UNITED STATES. } Land Claim.

The replication of Mary A. Mills and others, to the answer and amended answer of Thomas Douglas, Esq. attorney for the United States defendants.

And these replicants, saving and reserving to themselves all, and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies, in the answer and the amendment thereto of the said defendant, for replication thereunto say, that they do and will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant, and that the answer thereto is very uncertain, evasive, and insufficient in the law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed, or denied, is true; all which matters and things these replicants are ready to aver, maintain, and prove, as this honorable court shall order and direct, and humbly pray, as in, and by their said bill, they have already prayed.

WILLIAM J. MILLS,
Attorney in fact for Mary A. Mills, and the heirs of William Mills, deceased.
B. A. PUTNAM,
Counsel for Petitioners.

And, afterwards, before the superior court for East Florida, holden at the court house, in the city of St Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four; to which term this cause had come by regular continuance, to wit, on Wednesday, the fifth day of said term, and twenty-third of said month, the following entry of record was made in this cause, to wit:

LEAVE TO AMEND PETITION.

MARY A. MILLS, AND OTHERS *against* THE UNITED STATES OF AMERICA. } Land claim. 10,240 acres.

This day came the parties by their counsel, and, on motion of the claimant's counsel, leave is given to amend the petition in this case.

And, afterwards, on the same twenty-third day of July, in the year of our Lord one thousand eight hundred and thirty-four, the said claimants, by their said counsel, brought and filed in the clerk's office of the said court, his amendment to the said petition, which is in the words and figures following, to wit:

AMENDMENT TO PETITION.

SUPERIOR COURT—*East Florida.*

MARY A. MILLS, AND OTHERS *vs.* THE UNITED STATES.

And your petitioners further show unto your honor, that the said William Mills, their ancestor, and to whom the said grant was originally made, and also your petitioners were deterred from erecting said mill on said land, as well by the invasion of the country by the forces of the said George McGregor, as the generally disturbed state of the province from the time of said grant up to the change of flags, arising from the operations of hostile Indians, negroes, marauding parties of outlaws, threatening destruction to persons and their property, and thus rendering it unsafe and dangerous for any person either to go or reside in that portion of the country where said land is situated. And your petitioners further show unto your honor, that in addition to the reasons aforesaid, the cession of the province by Spain to the United States, by treaty of the 22d February, 1819, has contributed very strongly to prevent your petitioners from proceeding to erect to said mill, as they were, by the said act of their Government, involved in an uncertainty as to how their rights to said lands would be affected by a change of Government, and it thereby having become hazardous for them to incur the great expense necessary for such an establishment.

And your petitioners further respectfully submit, whether they have not been released from the performance of said condition of said

grant, by the said act of the Government, granting said land. And they respectfully insist, that they are, and they have a valid title to said land, free and fully discharged from the burthen of said condition.

B. A. PUTNAM,
Attorney for Petitioners.

And, afterwards, to wit, on the ninth day of August, in the year of our Lord one thousand eight hundred and thirty-four, Thomas Douglas, Esquire, attorney of the United States, for the district aforesaid, brought and filed in the clerk's office aforesaid, his answer to the foregoing amendment; which said answer is in the words and figures following, to wit:

ANSWER TO AMENDED PETITION.

SUPERIOR COURT—*District of East Florida.*

THE UNITED STATES
ads.
MARY A. MILLS, AND OTHERS.

The answer of Thomas Douglas, United States attorney, to the amendment to the petition of the complainant.

The said attorney, for and on behalf of the same United States, says, as to the invasion of the conntry by the forces of George McGregor, or of the disturbed state of the province from the time when said supposed grant or concession, is alleged to have been made, from marauding parties or hostile Indians, as in said amended petition is alleged, this respondent knows nothing; and cannot, therefore, either admit or deny the same, but leaves the petitioners to make such proof thereof, as they shall be able, at the hearing of this cause.

But this respondent alleges that if any such difficulties existed at all they existed to as great an extent at the time when it is alleged that said grant was made, and when the ancestor of the claimant took upon himself the performance of the condition therern mentioned, as at any time since. And this respondent insists that, neither by the said matters so alleged as aforesaid, if they shall be sustained by proof, nor by the cession of the province to the United States, by the treaty of the 22d February, 1819, have the said claimants been released from the performance of said conditions; and this respondent denies that any uncertainty has occurred as to the rights of bona fide claimants, who have faithfully complied with the condition of their grants in consequence of said cession, and insist that, by due and reasonable diligence, the said claimants might at any time have complied with the condition aforesaid; and this respondent further insists that it is not competent for the claimant, to set up a want of confidence in their own government as a reason for non-performance of the said condition; and that said respondent will insist upon this defect in the complainants' petition as matter of defence in this cause.

And now having fully answered, &c. he prays judgment, &c. without that, &c.

THOS. DOUGLAS,
United States Attorney.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Saturday, the thirteenth day of said term and the ninth day of August, the following entry of record was made in this cause, to wit:

HEARING OF CAUSE.

MARY A. MILLS, widow of William Mills, deceased, and William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of said William Mills,
against
THE UNTED STATES OF AMERICA.
} Land Claim. 10,240 acres.

This day came as well the counsel for the said claimants as the counsel for the said United States; and this cause came on to be heard this day; and the petition of the said claimant, with the amendment thereto, and the answer of the attorney of the United States, with the amendments and exhibit thereto, together with the replication of the said claimants were read to the court. The counsel for the claimant offered in evidence, without objection from the counsel for the United States, a certified copy of the original grant or concession in this case, together with a certified translation of the same. The claimants counsel also read in evidence, without objection, the testimony of Charles W. Clarke, taken and filed in this cause; and also offered and read in evidence in this cause, without objection from the counsel from the United States, the testimony of George I. F. Clarke, Antonio Alvarez, Bernardo Segin, John M. Fontane, and Joseph S. Sanchez, taken in the case of Zephaniah Kingsley against the United States. The claimants' counsel also offered in evidence all the testimony of Joseph S. Sanchez, Philip Solano, and Raphael D. Fontane, taken in the case of Elizabeth Wiggins against the United States on the part of the claimant, relating to the disturbed state of the country, under the agreement of counsel filed in said case of Elizabeth Wiggins; and the counsel for the United States offered in evidence in this cause all the testimony of the said witnesses, taken in the case of Elizabeth Wiggins, on the part of the United States, relating to the same subject. The counsel for the United States also offerred in evidence, without objection from the claimants counsel, the deposition of Antonio Alvarez, as taken in the case of John Breward against the United States, the same being so copied as to be made applicable to this case, and a document in the case of Juan Russel, dated Havana, 4th of March, 1815; and the evidence and testimony in this case,

on both sides, being now concluded, this cause was submitted to the court upon the briefs of the counsel, to be filed for its decree therein.

Evidence and *testimony* offered and read in this cause at the hearing thereof, to wit:

[No. 1.]

TESTIMONY OF C. W. CLARKE.

Offered and read by Claimant.

SUPERIOR COURT—*East Florida, May Term,* 1832.

MARY A. MILLS, AND OTHERS *vs.* THE UNITED STATES OF AMERICA. } May 17th, 1832.

Charles W. Clarke, sworn as a witness on behalf of the claimants, states: I know the claimants in this case to be the children and heirs of William Mills, deceased, and that Mary Mills is the wife of said William Mills. I know a place called Buffalo Bluff, on the St. Johns river; I did not consider it safe to settle there on account of the Indians. When I was about the country I was constantly afraid of receiving a ball from some concealed place, and the persons called Patriots were passing up and down the river St. Johns; I know a person named McGregor, he was chief of the patriots. The country was in such a situation from these causes as to render it unsafe for a person to settle on the St. Johns at Buffalo Bluff; and this disturbed state of the country continued till the Americans took posssession.

Cross examined by the U. S. Attorney. Buffalo Bluff is about six or seven miles from Pelatka, and about forty-two miles from St. Augustine; McGregor went to Amelia island, I believe in 1818, and staid there about two years; he left there when Col. Bankhead came there and drove him off. The situation of the country in 1815, '16 and '17 was not considered safe; I was broke up two or three times, and had to come to town, but was never otherwise disturbed in the country.

Question by U. S. Attorney. In your excursions through the country, of which you have spoken, was you ever disturbed by the one of the class of persons, of whom you have spoken, and did you ever see any of them in the neighborhood of Buffalo Bluff. Question not permitted by the court, because the witness in his testimony has stated the general situation of the country, known at the time from general report, it being a matter in which the whole province was interested: it is now a matter of history, and has been repeatedly testified to in this court. Whether the witness has been personally disturbed the court considers immaterial, and would throw no new light on the subject; the question is not therefore admitted unless the attorney states that it is put for the purpose of trying the foundation of impeachment of the witness's testimony.

[No. 2.]

INTERROGATORIES TO CLARKE, SEGIN, ALVAREZ, SANCHEZ, AND FONTANE.

Offered and read by Claimants.

SUPERIOR COURT, *East Florida. July Term*, 1834.

MARY A. MILLS, AND OTHERS *vs.* THE UNITED STATES. } Land Claim. 10,240 acres.

Testimony of *George I. F. Clarke*, *Bernardo Segin*, *Antonio Alvarez*, *and John M. Fontane*, *and Joseph S. Sanchez*, as taken under commission, issued from this court, and duly returned in the case of *Zephaniah Kinglsey* vs. *the United States*, and offered and read in evidence in this case at the hearing thereof, on the part of the said claimants, to wit:

Interrogatories to be propounded to George I. F. Clarke, Bernado Segin, Antonio Alvarez, Joseph S. Sanchez, and John M. Fontane, witnesses to be produced, sworn, and examined on the part of the claimant, in the above entitled cause, before John C. Cleland, Esquire, a justice of the peace, for St. Johns county, under a commission hereto annexed.

First interrogatory. Are you not a native of East Florida, and for how many years has it been your place of residence?

Second. What was the state of East Florida; disturbed or not in that portion of it on the west side of the St. Johns river, about McGirt's creek and Doctor's Lake; and was or was not that portion of East Florida, in so disturbed and dangerous a state and condition from the year 1817, till its transfer to the United States, as that a saw-mill could not have been erected, or a settlement made on the west of the St. Johns, at the place mentioned in this interrogatory, with safety to either property or person?

Third. Was or was not this country more disturbed, and paticularly that part of it west of the St. Johns and about Doctor's Lake, after the year 1817 than before that period.

Fourth. Were or were not the Indians, by the invasion of this province by General Jackson in 1818, on the west, driven in large numbers into East Florida; and was that not a reason why this country, west of the St. Johns, was rendered more disturbed after that period than before?

Fifth. Do you or not know that an overseer was killed on Drayton Island by the Indians, even since the transfer of this country to the United States?

Sixth. If you know any other matter or thing which may be material to the claimant on the trial of this cause, please state the same as fully and particularly as if specially interrogated thereto.

Additional interrogatory to Geo. I. F. Clarke. Were you not surveyor general of the Spanish Government at the transfer of this country to the United States, and for many years previous thereto; and in virtue of such office, were not your means of acquiring information as to the state of the country, generally, very ample.

Z. KINGSLEY,
By his Attorney in fact.
K. B. GIBBS.

Cross interrogatories to be propounded to said witnesses:

First. If you answer, that the country west of the St. Johns river was so much disturbed as to render it unsafe to make settlements therein from the latter part of the year 1816, to the change of flags in 1821, please to state whether or not such disturbances was produced by hostile Indians, or by white men? If by Indians, state whether or not the country bordering on the St. Johns river and below the mouth of Black creek, and the white inhabitants residing there, were disturbed by hostile incursions of the Indians during those years? If by white men, state by whom they were led or commanded, and whether or not the said white men disturbed the persons or destroyed the property of the white inhabitants residing in said district of country, during the period of before mentioned? If you answer that the settlers and their property in said district was unsafe during said period, by incursions of bands of white men, state at what time they ceased to molest the said inhabitants and their property?

Second. State whether McGirt's creek, spoken of in the direct interrogatories, is above or below Black creek, on the St. Johns river? If below, how far?

Third. If you answer that the district of country above spoken of, was disturbed and unsafe during the period before mentioned, state whether or not the said district has not been quiet and entirely safe since the exchange of flags in 1821?

Fourth. State where Drayton Island (spoken of in the fifth interrogatory) is situated, and whether it is above or below the mouth of Black creek? If above, state how far.

The defendant objects to the inquiry contained in the fifth interrogatory, as to the fact whether or not an overseer was murdered or killed by the Indians, since the exchange of flags, on Drayton's Island.

R. C. ALLEN,
For the U. States.

ANSWERS OF G. I. F. CLARKE.

The answers to the interrogatories propounded to George I. F. Clarke, a witness examined in the above cause on behalf of the claimant and defendant; the said George I. F. Clarke, being first duly sworn.

To the first interrogatory, witness answers: Yes; I am a native, and have resided in East Florida all my life.

Second interrogatory. Witness answers: The insurrection commenced in 1812: threw the whole province into a general ferment, and the destruction of the Indian settlements in Alachua, in 1813, by an American army, and these followed up by the destruction of the Micasuky and Sawanee Indian towns, by an American army in 1818, with the intermediate scuffling and fighting between the Indians and the white plundering parties about their cattle, kept most part of this province in a very uninviting, and, many parts, dangerous state to all efforts of industry, and the whole western side of St. Johns river, from its proximity to such scenes, the most affected by these evils.

Third interrogatory. Witness answers: I cannot say that the parts mentioned was in a worse state after the year 1817, than before, but there was none of that safety which invites industry.

Fourth interrogatory. Witness answers: The destruction of the Indian towns of Micasuky and Sawanee by General Jackson's army in 1818, did drive the Indians in numerous and scattered parties down through the eastern and southern parts of this province to the general danger of the whole.

Fifth interrogatory. Witness answers: I do not recollect to have heard of this occurrence.

Sixth interrogatory. Witness answers: I was one of a party exploring St. Johns river at the time when General Jackson's army was destroying the Micasuky and Sawanee towns, in the spring of 1818, and we had to retreat to St. Augustine, from the dangers manifest around us.

To the whole of the additional interrogatory, witness answers: Yes.

CROSS INTERROGATORIES.

To the first cross interrogatory, witness answers: The disturbances kept up in and about Alachua, and the influence of which extended down to those parts of the St. Johns mentioned, arose principally from the extensive course of plunder carried on for some years between some of the white inhabitants of Florida, and many more of those of Georgia, on the immense gangs of cattle owned by the Indians, and left there when they abandoned Alachua, and made their settlements at Sawanee; many partial and bloody scenes occurred amongst them, and cattle were reduced in price on the Georgia side of St. Mary's river, to three dollars a head and less. These evils by the joint efforts of the authorities of Georgia and Florida, were put a stop to in 1817, but that did not eradicate the danger, or at least the fear that continued to prevail in all parts remote from, or thinly settled by the white inhabitants of Florida. In all new thinly settled and settling countries, there will be found a hardy few in the advance, as though they courted or enjoyed danger as an amusement; but this carries no inducement or shelter to the more reflecting parts of the community.

Second cross interrogatory. Witness answers: McGirt's creek is below Black creek, about 18 miles.

Third cross interrogatory. Witness answers: My total retirement from all those parts since the change of flags in 1821, prevented my knowing or heeding any thing about them; prior to that, I was officially present.

Fourth cross interrogatory. Witness answers: Drayton's Island is in Lake George, about forty-five miles a direct course, or sixty miles following the meandering of the river above Black creek.

GEO. I. F. CLARKE.

Sworn before me, and subscribed to, this 21st day of July, A. D. 1834.

JOHN. C. CLELAND,
Justice of the Peace and Commissioner.

ANSWERS OF ANTONIO ALVAREZ.

The answers to the interrogatories propounded to Antonio Alvarez, a witness examined in the above cause on behalf of the claimant and defendant, the said Antonio Alvarez being first duly sworn.

To the first interrogatory, witness answers: I am a native of East Florida, and it has always been my residence.

Second interrogatory, witness answers: The country of East Florida was in a disturbed state, from the year 1812 until the year 1815, or 1816, particularly the part mentioned; that in year 1817 it was again disturbed by the expedition under McGregor, in consequence of which the troops stationed at St. Nicholas' garrison, on the St. Johns river, was withdrawn by the Spanish Government, and that part of the country left without any protection; knows it would not be safe nor could not have been safe in 1817, to establish a saw mill, or to make any improvement with safety to the proprietors.

Third interrogatory, witness answers: I know that after the year 1817, the Indians murdered several persons on the other side of the St. Johns river, but does not recollect distinctly the names of the persons, or the year in which said families were so murdered; that in consequence thereof some of the inhabitants took refuge on this side of the river.

Fourth interrogatory, witness answers: There were many Indians about this period came into East Florida; does not recollect of any other disturbance that took place by the Indians, except that which is stated in the third interrogatory.

Fifth interrogatory, witness answers: I think I did hear something of a person being murdered on Drayton island.

Sixth interrogatory, witness answers: I know nothing more than what has been stated.

Cross Interrogatories.

To the first cross interrogatory, witness answers: The country was disturbed in June, 1817, by McGregor's party, as stated in my answer to the second interrogatory, and after that period the Indians committed the depredations alluded to in my answer to the third

interrogatory; the white men were commanded by McGregor, and during the time his troops had possession of Fernandina, believes it was not safe for the Spanish inhabitants to form any establishment on the other side of the river St. Johns; does not recollect at what time the Indians that committed their depredations, as aforesaid, ceased their invasion; does not know the location of Black creek or that district of country.

Second cross interrogatory, witness answers: I do not know the location of Black creek, and McGirt's creek, as I have never been in that part of the country.

Third: Yes, it has been quiet.

Fourth, witness answers: I know that Drayton island is situated on Lake George.

ANTONIO ALVAREZ.

Sworn to, and subscribed before me, this 21st day of July, A. D. 1834.

JOHN C. CLELAND,
Justice of the Peace and Commissioner.

ANSWER OF BERNARDO SEGIN.

Answers to Interrogatories,

Propounded to Bernado Segin, a witness examined on the part of the claimant and defendant in the above cause, the said Bernado Segin being first duly sworn:

To the first interrogatory, witness answers: I am a native of East Florida, and it has been my residence since my birth.

Second interrogatory, witness answers: I know that the inhabitants on the river St. Johns were in a disturbed state, in the year 1817, and before the transfer of East Florida to the United States, in consequence of the revolution by McGregor's party, that came into Florida (East) at this time, and continued in this disturbed state till the cession. I believe that no saw-mill, or any other buildings or improvements could be erected during the continuance of McGregor's invasion, with any degree of safety to the proprietors.

Third interrogatory, witness answers: The same as the second interrogatory.

Fourth interrogatory, witness answers: I understood that numbers of the Indians were driven from the west into East Florida, during the invasion of General Jackson. I suppose it would be a reason why the country west of the St. Johns river was rendered into a disturbed state.

Fifth interrogatory, witness answers: I know nothing of it.

Sixth interrogatory, witness answers: I know nothing more than what has been stated in my foregoing answer that would benefit the the parties in this cause.

Cross Interrogatories.

To the first cross interrogatory, witness answers: The west side of the St. Johns was in a disturbed state, by the Indians being driven into the east by General Jackson, and also the white men under the command of McGregor, the Spanish inhabitants having no protection, and consequently were kept in a continual state of alarm; not aware that the persons or property of any individual was destroyed by the disturbances of either the whites or Indians. The white men under the command of McGregor ceased to alarm the inhabitants of East Florida, as soon as the United States troops took possession of Fernandina.

Second cross interrogatory, witness answers: Does not know of such a place.

Third cross interrogatory, witness answers: Yes.

Fourth cross interrogatory, witness answers: Does not know where Drayton island is situated.

B. SEGIN.

Sworn to, and subscribed before me, this 21st day of July, A. E. 1834.

JOHN C. CLELAND,
Justice of the Peace and Commissioner.

ANSWER OF J. M. FONTANE.

The answers of John M. Fontane to the interrogatories propounded to him, a witness examined in the above cause on behalf of the claimant and defendant, the said John M. Fontane being first duly sworn.

To the first interrogatory, witness answers: I am, and have resided in it during my life, with the exception of such times as I was absent.

Second interrogatory, witness answers: During the period mentioned in this interrogatory, I did not think it safe to make a settlement on the west side of the river St. Johns.

Third interrogatory, witness answers: I do not know that the parts mentioned in this interrogatory were more disturbed or not, after the year 1817, than for a few years previously.

Fourth interrogatory, witness answers: I understood that General Jackson pursued a great many Indians into Florida in 1818, but I do not know whether the Indians were more troublesome after this time, as the country was disturbed some years previous by Indians and white men.

Fifth interrogatory, witness answers: I think I have heard it, but cannot say positively.

Sixth interrogatory, witness answers: The whole country of East Florida was more or less in an unsettled state, from 1812 until the exchange of flags.

Cross Interrogatories.

To the first cross interrogatory, witness answers: The disturbances were generally by Indians, and sometimes by white men between the years 1816 and '21. The Indians attack one or two families residing on Black creek, and two or three persons were killed; this was the common report at the time. I do not know who was the leader of such white men, or whether they ever destroyed any property in that neighborhood; after the exchange of flags the country became more tranquil.

Second cross interrogatory, witness answers: McGirt's creek is on the west side of the river St. Johns, 5 or 6 miles or thereabouts above Jacksonville.

Third cross interrogatory, witness answers: Yes, the country has been tranquil.

Fourth cross interrogatory, witness answers: Drayton Island, I believe, is high up the river St. Johns, near Lake George.

JOHN M. FONTANE.

Sworn before me, and subscribed to, this 22d day of July, A. D. 1834.

JOHN C. CLELAND,
Justice of the peace and Commissioner.

ANSWERS OF JOS. S. SANCHEZ.

The answers to the interrogatories propounded to Joseph S. Sanchez, a witness examined on the part of the claimant and defendant in the above cause; the said Joseph S. Sanchez being first duly sworn.

To the first interrogatory, witness answers: I am a native of East Florida, and have always resided in it.

Second interrogatory. Witness answers: I do not know the *the* location of McGirt's creek, or Doctor's Lake; believe that the country west of the St. Johns river was so disturbed from the revolution of 1812 and '13, up to the change of flags, as to render unsafe all description of property and persons.

Third interrogatory. Witness answers: I do not know whether the west of the river St. Johns was more disturbed after 1817 than it had been previous to it, nor do I know whether the country about Doctor's Lake was more particularly disturbed or not, nor do I know the location of Doctor's Lake.

Fourth interrogatory. Witness answers: The invasion of the Territory of Florida by General Jackson, drove the Indians in large numbers into East Florida; supposes that to be one of the reasons why the whole country was more disturbed at that time than at any other.

Fifth Interrogatory. Witness answers: I do not recollect that any person was killed on Drayton island, as I do not know where Drayton island is situated; but I do know that several persons were killed on the west bank of the river St. Johns; I do not recollect whether the killing took place before or after the transfer of Florida to the United States.

Sixth interrogatory. Witness answers: I do not recollect of any other matter or thing that would be material or beneficial to either party in this case.

CROSS INTERROGATORIES.

To the first cross interrogatory, witness answers: The whole country west of the St. Johns river was disturbed alternately by Indians and white men; cannot recollect the particular period of time when those disturbances took place. I do not recollect by whom the white men were commanded, believe that had no regular commander; they continued to disturb the country and property until the exchange of flags.

Second cross interrogatory. Witness answers: I do not know where McGirt's creek is situated, whether it is above or below Black creek, having travelled but seldom into the country during the reign of the Spanish Government; and since then, have had no object in making myself aquainted with the geography of the country.

Third cross interrogatory. Witness answers: No; there has been several persons killed by he Indians on the west side of the St. Johns river since the exchange of flags.

Fourth cross interrogatory. Witness answers: I have already stated that I do not know where Drayton island is situated, I believe it to be somewhere in the river St. Johns.

JOS. S. SANCHEZ.

Sworn to, and subscribed before me, this 21st day of July, A. D. 1834.

JOHN C. CLELAND,
Justice of the Peace and Commissioner.

[No. 3.]

Testimony taken on the part of the claimant, offered and read by claimant. Testimony taken on the part of the United States, offered and read by the attorney of the United States.

SUPERIOR COURT, *East Florida—July Term*, 1834.

MARY A. MILLS AND OTHERS, *vs.* THE UNITED STATES. } Land Claim. 10,240 acres.

Testimony of Joseph S. Sanchez, Philip Solano, and Raphael D. Fontane, taken in open court in the case of Elizabeth Wiggins against the United States, relating to the disturbed state of the country, and read in evidence in this case at the hearing thereof, to wit:

TESTIMONY OF JOS. S. SANCHEZ—of Joseph S. Sanchez.
Examined by Counsel for Claimant.

Question. Do you know where Lake George is situated?

Answer. I have never been there, I believe it is situated south and

west of this place. I cannot say how far distant it is from this place. I do not know where it is; it is on the river St. Johns somewhere.

Question. Are you not able to state that it is up the river St. Johns, and a considerable distance south of Pilatka, and that it is in the neighborhood of Spring Garden?

Answer. I know that it is up the river St. Johns, south of Pilatka. I do not know how far it is from Pilatka. I have never been in that section of the country.

Question. Will you not be pleased to state whether it is not south of the junction of the Ocklewaha with the St. Johns?

Answer. I cannot say.

Question. Are you able or not to state whether or not it was considered unsafe to settle in that portion of this province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time till the transfer of the province to the United States?

Answer. Yes; it was generally believed unsafe to travel anywhere south and west of this place, before and even since the transfer of the country. I believe there were one or more prosecutions for murders committed sometime after the change of flags by the Indians.

Question. Had not the attack of Gen. Jackson on the Indians in 1817 or 1818, the effect of driving them in large bodies from the Alachua country towards the eastern part of the province, and especially to the banks of the river St. Johns?

Answer. Yes; they were driven as far even as St. Augustine.

Question. Was it or not the common report and understanding of the people of this part of the province that, from about the year 1816, to the time of the cession, the shores and neighborhood of Lake George were the places of especial common resort by the Indians?

Answer. I don't know that it was more a place of resort than any other, even north of this place. I heard of the Indians committing several murders about Flemmings island, or in that vicinity somewhere.

Question. From what did the unsafe condition of this province result in Spanish times?

Answer. It resulted from the frequent incursion of the people from the borders of Georgia, together with those on this side, and the unsettled state of the Indians who were never controlled by the Spanish Government at all, and who were always ranging through the province.

Question. Would negro property, particularly on small plantations and settlements on the river St. Johns, and especially high up the river, have been safe within the periods you have spoken of?

Answer. They were not considered safe. I know of several cases where they were kidnapped by the persons I have mentioned in my preceding answer.

Examined by the U. States Attorneys.—Question. You have said it was dangerous to travel to the south and west of this before the delivery of the province to the United States. Were there no per-

sons settled in the country to the south and west of this previous to that time?

Answer. There were two or three persons settled about Musquito: but they were obliged to pay pretty dearly for it. They had to give the Indians presents every time they came down there, to keep them quiet.

Question. How long had those persons been settled there, and how long, before the change of flags, had there been any molestation of those persons by the Indians?

Answer. There were never more than four or five persons settled at Musquito: I don't know how long they were settled there. The old ones died off, and others took their places; and they were obliged to pass as Englishmen, to be allowed to stay down there by the Indians, these persons were always troubled by the Indians, who saved them the trouble of reaping all their crops, by stealing their corn and provisions.

Question. Were you at Musquito within the time you mention, or how do you know that the Indians committed the depredations you have stated?

Answer. I don't exactly recollect the first time I went down to that section of the country. I was down there once, when a party of Indians came to house of Mr. Hunter, and they seemed to think that every thing belonged to them. Even now the Indians are sometimes in the habit of stealing provisions.

Question. Is it not the character of the Indians to plunder the plantations, whenever they have an opportunity?

Answer. I believe that it is their general character; but they were in the habit of doing it more frequently in this section of the country, because the inhabitants and Spanish Government were not strong enough to keep them in subjection.

Question. You have said there were not settlers on the river St. Johns; to what part of the river do you intend to apply the remark?

Answer. On the river south and west of Musquito: I meant to apply the remark to the river generally, on the east side from its head down to the neighborhood of Picolata.

Question. What number of persons were there settled at Picolata?

Answer. I believe there were no other persons living at Picolata, but Mr. Wanton and family, and Mr. Rondon and his family. I believe there were no inhabitants then on that side of the river, until you got down to Judge Fatio's, and down to Julington creek, where there were a good many inhabitants settled.

Question. Do you recollect to have heard of any disturbance among these inhabitants occasioned by the Indians, after the revolution of 1812 to 1813?

Answer. Yes; the Indians were always troubling them, and they are doing so now; killing their stock in the neighborhood of Picolata.

Question. Was there any other disturbance among them, other than that you have mentioned?

Answer. I cannot say, I have no recollection.

Question. Do you know of a single instance under the Spanish Government, of a white person having attempted to make a settlement on Lake George?

Answer. I can't say that I ever heard.

Question. Do you recollect to have heard of any person going direct to Lake George, during the time the Spaniards remained in this country?

Answer. I don't know that I ever heard of any person going direct to Lake George; there were a few persons, not more than four or five, that were in the habit of travelling that country, trading with the Indians.

Question. Was not the whole country, in the neighborhood of Lake George, an uninhabited wilderness, during the whole period of the Spanish occupancy of this province?

Answer. I expect it was; no one would have gone there to settle, for they did not consider it safe to go there.

Question. At what time did the last revolution of the province terminate; and was not the country as tranquil from that time, as it was at any other period, until the delivery of the province to the United States?

Answer. The revolution terminated I believe the latter end of 1812 or in 1813; I do not recollect the time exactly. The country was never more untranquil than it was from time till the exchange of flags. The country was more untranquil from that time till the exchange of flags, than at any other time, by the incursions of these people he has mentioned from Georgia.

Question. Were the persons you have mentioned from Georgia, troublesome to the Indians or to the Spaniards?

Answer. They were troublesome to both; they plundered and murdered the white population as well as the Indians.

Question. Was the disturbance greater after the year 1815 than it had been before that time?

Answer. I think that it was; after the revolution the country continued very disturbed till after the change of flags; I think it became more tranquil about a year before the change of flags, but not so tranquil as to induce persons to settle, till a few years after the change of flags.

Question. Did any person, without your knowledge, attempt to make a settlement at a distant and remote place, during the period from 1812 till 1821?

Answer. Yes; I think there one or two attempts made to settle part of the country: Arredondo attempted to settle the Alachua grant, and Joseph M. Sanchez attempted to settle at Dunn's Lake; there may be others that I know nothing about.

Question. Did these persons make their settlements?

Answer. I think Joseph M. Sanchez did not succeed; I believe the Arredondos were four or five years in making a settlement; they had to make negotiations with the Indians.

Question. What attempt did Mr. Sanchez make to settle at Dunn's Lake?

Answer. I believe he went out there and took some negroes with him, but he was obliged to come back: I think this was just before, or immediately, after the change of flags. He did not abandon the land; he afterwards went there and settled the place, and lived there five or six years till he was taken sick, when he came to town and died.

Question. At what time did Mr. Sanchez make his settlement on Dunn's Lake?

Answer. I think the time when he first went out to Dunn's Lake, was in 1817 or 1818; and the last time when he went out to settle, and did effect a settlement, was after the change of flags; how long after, I do not recollect.

Examined by Claimant.—Question. You said in answer to an inquiry from the counsel for the United States, that there were no settlements except of Indians on the river St. Johns, especially to the east side of it above Picolata. Will you state the distance and direction of Picolata from St. Augustine?

Answer. It is directly west, about eighteen miles distant.

Question. Was not the province, and the Indians in it, particularly disturbed after 1815 by the invasion of the province on the west, by General Jackson, and at St. Mary's, by General Gaines?

Answer. It was disturbed by the invasion of General Jackson, who drove the Indians down upon us, and they stole our property and every thing else. I don't know how much the invasion of General Gaines troubled the country.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, driven in great numbers into and over East Florida from the west of the Sawanee?

Answer. Yes; they were so, and even to St. Augustine?

Question. Were not the plantations at the south and west of St. Augustine, so far as any were established after 1815, to the transfer, constantly liable to have their negroes kidnapped by the patriots from Georgia and the St. Mary's?

Answer. There were some instances where they were taken and, I believe, one or two instances where they were shot.

Question. Could not a person to whom a concession had been made, according to the practice and usage of the Spanish Government, enter upon the performance of the condition of possession and cultivation at any period after the concession, provided the Government had not previously granted the land to another?

Answer. I believe they could, that is, if they had been disturbed at any time from going on the land, and if the Governor had not granted the land to another person.

Question. Suppose a concession made upon head rights, could not the grantee enter upon the land for the purpose of cultivating it at any time while it remained ungranted to another?

Answer. I don't know, it depended upon the will of the Governor; sometimes he directed that the party should take possession within a limited time, at other times he did not limit the time at all.

Examined by United States Attorney.—Question. Were the Indians driven into the province by the invasion of General Jackson on the west until the month of May, 1818?

Answer. I don't recollect exactly the time, it was sometime in 1818.

The counsel for the United States objected to all the testimony of this witness, in relation to the disturbed state of the country, alleging that the same is irrelevant; which objection was overruled by the court, and the testimony admitted.

TESTIMONY OF PHILIP SOLANO.—Of Philip Solano.

Philip Solano, sworn as a witness in open court, on behalf of the claimants.

Question. Are you a native born inhabitant of East Florida?

Answer. Yes.

Question. Have you been a constant resident of the province?

Answer. Yes.

Question. Be pleased to state your age.

Answer. I am fifty-one years old.

Question. Were you in Spanish times engaged in licensed trade with the Indians of the province? If so, for what period.

Answer. Yes. We traded with the Indians when we pleased; we had no limited time. I was in trade with them for about twenty years before the cession.

Question. Do you know where Lake George is situated?

Answer. Yes. It is situated on the river St. Johns, about sixty or seventy miles southwest of this place.

Question. Will you he pleased to state, as near as you can, how far Lake George is above Picolata?

Answer. I declare I cannot say. I have never been there by water, but it may be in a straight line about sixty miles. The river is very crooked.

Question. Are you able to state, whether or not, it was considered unsafe to settle in that portion of the province, and around and contiguous to Lake George, in the year 1815 and 1816, and from that time to the transfer of the province to the United States?

Answer. Yes.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815 and at the time he invaded West Florida, driven in great numbers into, and over, East Florida, from the west of Sawanee?

Answer. They were so.

Question. Will you be pleased to state, if you know, whether or not Lake George and its neighborhood was or was not a place of frequent and common resort of the Indians?

Answer. Yes; it was a common resort of the Indians, more so in the winter; they resided there more in the winter than at any other time.

Question. Will you state, whether at the time the Indians were driven in f om the west by General Jackson, they did not particularly resort to, and in great numbers harbor about Lake George?

Answer. Yes; a great many.

Question. Will you be pleased to state, whether negroes or other property, upon the river St. Johns, and to the south and west of St. Augustine, from 1815 to the transfer of the province, was considered safe?

Answer. No.

Question. Do you consider that a small settlement could have been made and occupied with safety on the banks of Lake George, or its neighborhood, for any considerable time during any period between the years 1815 and the time of the cession?

Answer. I don't believe it could be done.

Question. Do you know of any particular incursion upon the province or disturbance between the years 1815 and the cession? If you do, be pleased to state them, and the time they occurred.

Answer. I do not recollect.

Question. Were not some of McGregor's men killed at Musquito?

Answer. Yes; some of them were killed there, that came there in a boat, I understand.

Question. Where did these men of McGregor's go from, and for what purpose did they go to Musquito?

Answer. I can not exactly say. I heard they went from St. Mary's.

Question. Did or did not East Florida remain in a very unsafe and unsettled state for some years after the cession?

Answer. Yes.

Question. Was negro property safe or unsafe on the St. Johns river, particularly high up the river, between 1815 and the cession?

Answer. I never considered them safe.

Question. Was or was not a great number of negroes kidnapped and carried off from the St. Johns between 1815 and the cession?

Answer. I do not recollect of any, in particular, being taken away. Some ran away.

Examined by United States Attorneys.—Question. You have said you have been frequently at Lake George. Will you state, if you please, what you suppose to be the extent of the lake in width and breadth; and whether or not it is not a very extensive sheet of water?

Answer. I have never been there for the purpose of examining the place. I don't know the length or the width of it. I have seen the lake often, but I don't know how long or how wide it is.

Question. Do you think it is ten miles in breadth?

Answer. I cannot say whether it is ten miles in width or not: it may be between five and ten miles wide. I don't know exactly how wide it is.

Question. Do you think it ten or fifteen or twenty miles long?

Answer. I could not say exactly, it may be ten miles long.

Question. Have you travelled much on the borders of the lake?

Answer. I have been to it different times, but I have never travelled much on the borders of the lake.

Question. Did you ever know any other white persons, except Indian traders, to go to Lake George before the change of flags?

Answer. No.

Question. Was it not very unusual for even the Indian traders to go to Lake George before the change of flags?

Answer. It was not in their way; it was unusal for them to go there.

Question. How far is the settlement on Musquito from Lake George?

Answer. I can't say exactly, but I suppose it to be about 25 or 40 miles.

Question. Was there any settlements between Musquito and Lake George?

Answer. Yes; there was one at Spring Garden.

Question. Who made the settlement at Spring Garden; and at what time was it made. How long did he live there, and at what time was it abandoned?

Answer. One Mr. Williams made the settlement. The time when it was made is about thirty years ago, as near as I can recollect. I don't know how long he lived there, or when it was abandoned.

Question. Was any one living at Spring Garden in the year 1815?

Answer. I believe not. I saw Indians living about there in 1815.

Question. Were there any other settlements nearer to Lake George than the settlement at Musquito in the year 1815.

Answer. Not that I know of.

Question. What number of men were in the boat at Musquito, in the year 1817, when you say some men were killed; and did not the balance of the party belonging to the boat leave there immediately after?

Answer. I don't know what number there was in the boat; I believe, by what I understood, that the Spanish troops and some dragoons made them go away.

Question. Did not the Governor send out the troops to defend the inhabitants, settled on the east of the St. Johns river, whenever the settlers complained of intrusion, either from the Indians or white people?

Answer. I never knew him to send any troops after the Indians; some of ourselves, went out sometimes when the Indians did mischief; we petitioned the Governor for leave to go out.

Question. When you went out in pursuit of the Indians who had done mischief, did you not always succeed in driving them off?

Answer. We never could overtake them.

Question. You have said there were Indians living on Lake George. When did you first see them living there?

Answer. I don't know if they were living there; they went backwards and forwards there.

Question. You have said that the Indians were driven in on this province by the invasion of General Jackson. Was that before the

year 1818; and did you ever see more Indians on that lake after 1818 than you had ever seen there before that time?

Answer. I think there were more Indians on Lake George after 1818, than there were before; they were driven down here by General Jackson.

Question. Could a settlement have been made upon Lake George with safety to either persons or property before the year 1815?

Answer. I believe not.

The counsel for the United States objected to all the testimony of this witness, in relation to the disturbed state of the country, as being irrelevant; which objection was overruled by the court, and the testimony admitted.

TESTIMONY OF R. D. FONTANE.—Of Raphael D. Fontane.

Raphael D. Fontane, sworn as a witness in open court, on behalf of the claimant.

Question. Are you a native inhabitant of East Florida; and has the city of St. Augustine been your constant residence?

Answer. Yes.

Question. Will you state where Lake George is situated, and its distance and direction from St. Augustine?

Answer. It is situated on the river St. Johns, in about a southwest direction from here; is about sixty miles distant from here by land, and between 45 and 50 miles above Picolata; and from Musquito, across to Lake George, is between 25 and 30 miles.

Question. Will you state whether the country at Lake George, and in its neighborhood, was considered a safe place for settlement at any time between 1815 and the transfer of the province?

Answer. I don't think it was.

Question. Was it reported as a place of frequent and common resort of the Indians of the province?

Answer. Yes.

Question. Do you consider that either slaves or other property would have been at all safe at a small settlement on the shores of the lake, at any time from 1815 to the transfer?

Answer. I don't think they were.

Question. Was slave property considered liable to be kidnapped when upon the St. John's, to the south and west of St. Augustine; and were negroes occasionally kidnapped and run into Georgia or into the Indian country?

Answer. They were.

Question. Do you know of any disturbances that occurred in the country, occasioned either by the Indians or by the patriots, subsequent to 1815? and if so, please to state what they were.

Answer. I do. In 1817 Amelia Island was taken. In 1818, at McGirt's point, there was the family of one Bradley killed there by the Indians, and some of them wounded. In 1817, at Black creek, there was a son of one Mr. Branning killed by the Indians, at Flem-

ming's island. A party of Indians, about the latter part of 1817, came down there and killed a young man. At Picolata, there were some negroes taken away that belonged to Mr. Wanton. I think this was in 1816; they were taken by white men, and I believe they were carried into Georgia. There were a family of free negroes taken within nine miles of this city; they were taken near about the same time that Wanton's were. There was a boat, in the month of August, 1817, left Amelia Island and went to Musquito, and went up the Tomoka river, for the purpose of plundering; this was a party fitted out from that place, and I believe all the men were killed in the boat but one; and their boat was taken. I was engaged in two expeditons, in 1817, to go out and protect the inhabitants. It was understood there was a boat fitting out for the purpose of plundering the inhabitants, and we went to Mrs. Hudnell's, on the St. Johns river. I was in another expedition that went to St. Mary's river to protect the inhabitants. One of these expeditions was in July, 1817, and the other expedition was sometime after that, in the same year.

Examined by United States Attorneys.—Question. Do you recollect of any other disturbances in the province, between the years 1815 and the year 1821, than those you have mentioned?

Answer. I have no recollection of any others.

Question. How far is Amelia island from Lake George. How far is McGirt's point, Black creek, and Fleming's island, from Lake George?

Answer. I should suppose Amelia island to be about one hundred and fifty miles from Lake George. McGirt's point, about one hundred miles. Black creek, about eighty miles. Flemming's island, about eighty miles, and Picolata, about fifty or sixty miles distant from Lake George.

Question. How many persons were supposed to be concerned in the taking of negroes of Mr. Wanton at Picolata; how many negroes were taken, and were they not the children of Mr. Wanton?

Answer. I suppose there were eight or ten persons concerned, I believe, including Wanton's children, there were about 17 negroes taken, as near as I can recollect.

Question. Was not Wanton an Indian countryman, and were not the persons engaged in taking these negroes, subjects of the King of Spain?

Answer. I don't know that he was. I have known him to live at Picolata. I believe that some of these persons engaged in taking these negroes of Wanton's, were Spanish subjects, and some of them people from the borders of Georgia. There was a gang of Indians at McGirts point; I don't know of how many it consisted. The Governor did not send out troops at that time. There were eleven Indians concerned in the affair on Flemming's island. I don't know how many Indians there were concerned in the affair at Black Creek.

Witness states: That the strength of the Spanish garrison in this place, from the year 1815 till the change of flags, including the black troops, were something like six hundred men, well armed and equip-

ped. There was a garrison on the St. Johns, at a place now occupied by Mrs. Hudnell, called Fort St. Nicholas, but which was broken up in June, 1817. There was a garrison at Pilatka, opposite the place where Dr. Brush's settlement now is. There was a fort at Picolata; but I don't know that there was any troops there; there were a few men at the place where Mr. Hollingsworth formerly lived, about 12 miles above St. Nicholas. Witness does not know that there were any troops at the mouth of St. Johns river after 1812. Witness states that the number he has mentioned, as being stationed at this place, does not include the militia of this place, which might have been one hundred. Witness states that the boat that was taken at Musquito, was taken by the militia that went from this place. The Governor received intelligence of this boat's fitting out, and the boat was seen to pass here, and the militia arrived about the same time with the boat; the whole of the men in the boat were killed, with the exception of one man, and the boat taken.

Question. Whenever the Governor was applied to for protection by any of the people settled in the country, did he not send out detachments of troops for their relief?

Answer. I don't recollect of any instance of the kind. Companies that were fitted out, I know to have been volunteer companies fitted out by permission of the Governor.

Question. Could a settlement have been made upon Lake George, with safety to persons or property, before the year 1815?

Answer. I think not. I have been at Lake George; I was up there in the early part of 1817; I was not there with the Indian traders; I was looking out for live oak.

Examined by Claimant.—Question. Were these garrisons stationed in different places on the St. Johns, or elsewhere, considered as protecting the country, and making it safe and secure beyond the reach of their guns?

Answer. They were not. I believe they were merely kept there for the purpose of giving information to the Governor if there was any disturbance. They were only a few men.

Question. Was the garrison, opposite Pilatka, commanded by Lalderal?

Answer. It was kept by a few free negroes; there was a corporal there; I believe Lalderal was stationed there. The object of this garrison was to conduct Indians across the river St. Johns.

Examined by United States Attorneys.—Witness states: That it is between 25 and 30 miles from Lake George to Pilatka.

[No. 4.]

INTERROGATORIES TO ALVAREZ

Offered and read by the U. States.

SUPERIOR COURT—*East Florida, July Term*, 1834.

MARY A. MILLS, AND OTHERS, *vs.* THE UNITED STATES. } Land Claim. 10,240 acres.

The testimony of Antonio Alvarez, taken under commission issued from this court and duly returned in the case of John Breward vs. the United States, and offered and read in evidence in this case on the part of the United States, the same being so copied as to be made applicable to this case, to wit:

Interrogatories to be propounded to Antonio Alvarez, Esquire, a witness to be sworn and examined on behalf of the United States, before Elias B. Gould and John C. Cleland, Esquires.

First. Are you a native of East Florida or not?

Second. What is your age?

Third. How long have you resided in the city of St Augustine, in East Florida?

Fourth. Did you hold any office in East Florida before the transfer of this province to the United States? If you did, please to state what office, and when and how long you discharged the duties of said office.

Fifth. Did you at any time act as clerk in the Governor's Secretary office, or in the office of the escribano or not? If you did, please to state which, when, and how long.

Sixth. In what office where concessions of land made and kept in East Florida, before the transfer of that province to the United States?

Seventh. In what office were royal titles (real titles) made and kept in East Florida before the transfer of said province to the United States?

Eighth. In what office should the papers now be found deposited, which were referred to in the 6th and 7th preceding interrogatories? Is or is not the public archives the proper place of deposit for said papers?

Ninth. Are you the keeper of the public archives of East Florida, or not? If you are, please to state how long you have held said office?

Tenth. Please to name the several persons who held and exercised the office of Governor of the province of East Florida, between the years 1784 and 1821, and the time when each of said persons entered upon the discharge of his duties as such Governor, and when they respectively ceased to discharge the said duties?

Eleventh. Is there any order on file in the said archives under your charge from the King of Spain, or from the council of the Indies re-

quiring said Governor to render an account of his administration during the time when he held and discharged the duties of said office of Governor as aforesaid? If there is, please state to which of said Governor's said order was directed, and annex to your answer a copy thereof.

Twelfth. Were any of said Governors ever required to render such account? If yea, state which of them.

Thirteenth. Did any one of said Governors ever render such an account? If they did, please to state which of them, when it was made, and *particularly* whether such account contained a statement of the number of concessions grants or of land made by said Governor during such administration, with the name (or names) of each grantee (or grantees,) and the number of acres of land granted to each.

Fourteenth. Is there any copy of such an account made by any of said Governors now on file in the archives under your charge? If there is, please annex a copy thereof to your answer.

Fifteenth. Did any of said Governors ever undergo a residencia in said province? If yea, which of them, and when.

Sixteenth. Did any of said Governors ever render an account to the King, Captain General Intendant of Cuba, or any other officer, of the lands granted by them, except in the single case of the exchange of lands for a vessel with Juan Russell, or not? If they did, please to state which of them, and of what said account consisted; and state, also, the particulars of the case of Juan Russel.

THOS. DOUGLAS,
United States Attorney.

CROSS INTERROGATORIES.

First. Is not the case of Juan Russell, a matter of record in your office; and are not all the proceedings set forth in writing thereon?

Objection. To so much of the 16th direct interrogatory as makes inquiries as to the case of John Russell, and the particulars thereof, from the witness, we object, because the testimony of the witness is not the best evidence in the case. The question itself supposes that John Russell's case is of record, in writing, in the office of the archives, and a copy of that record is better evidence of its contents, than the verbal testimony of the witness.

LANCASTER & SMITH,
For Claimant.

ANSWERS OF ANTO. ALVAREZ.

The answers of Antonio Alvarez, to the interrogatories and cross interrogatory hereunto annexed, taken before the commissioners appointed for that purpose, in behalf of the United States.

To the first interrogatory, witness answers: I am a native of East Florida.

Second. To this he answers: My age is forty-two years.

Third. To this he answers: St. Augustine has always been my

residence. I was absent for sometime in 1809 and 1810, in the Havana.

Fourth. To this he answers: I was clerk in the Government Secretary's office from 1807, to the change of government, during which time I was absent in the year 1809, and part of 1810, and parts of 1814 and 1815.

Fifth. To this he answers: I was clerk in the Government Secretary's office as stated in the preceding answer. I also acted as clerk in the office of the escribano for a few months in the year 1814.

Sixth. To this he answers: Concessions of land were made and kept in the office of the Secretary of the Government.

Seventh. To this he answers: Royal or real titles were made and kept in the office of the escribano.

Eighth. To this he answers: The proper place for the deposite of such papers, is the office of the public archives.

Ninth. To this he answers: I am the keeper of the public archives, and I have held the office since 1829.

Tenth. To this he answers: Zespedez, from 1784 to 1790; Quesada, from 1790 to 1796; White from 1796 to 1811; Estrada, from 1811 to June 1812; Kindelan, from 1812 to, I believe, to May 1815; Estrada the balance of 1815; and Coppinger, from 1816, to the change of flags. My knowledge of the time of the Government of Zespedez and Quesada, is derived from the information I obtained in the office of the Secretary of the Government.

Eleventh. To this he answers: I know of no such order.

Twelfth. To this he answers: I know of none.

Thirteenth. To this he answers: None of the Governors made such account.

Fourteenth. To this he answers: There is no such document on file in my office.

Fifteenth. To this he answers: I know of no Governor of East Florida who underwent any such residencia.

Sixteenth. To this he answers: The Governors of East Florida never rendered an account of the lands granted by them except in the case of the exchange of four thousand acres of land for a schooner with John Russel.

Answer to cross interrogatory.

First. To this he answers: I answer in the affirmative.

ANTONIO ALVAREZ.

TERRITORY OF FLORIDA, *County of St. Johns, ss.*

We whose names are hereunto subscribed, commissioners, named in the annexed commission, do certify, that after being sworn ourselves, we did examine the witness named in said commission under oath, and his answers to the interrogatories and cross interrogatories annexed to said commission, are truly and correctly herein set forth.

Given under our hands, at St. Augustine, the 6th August 1834.

JOHN C. CLELAND, } *Commissioners.*
E. B. GOULD. }

[No. 5.]

DECREE IN RUSSELL'S CASE.

Decree in the case of Juan Russel, offered and read by U. S. Attorney.

[TRANSLATION.]

Under date of the 14th of June last, his excellency, the minister of the royal domain, tells me what follows: "I have given to the King an account of your excellency's letter, No. 9. of the 20th of November last, in which you inform of what was directed to you by the Governor of East Florida, on the occasion of his having given to Don Juan Russell, one thousand acres of land in exchange for a schooner, which he wanted for the royal service, and which, with all its appurtenances, was valued two thousand and six hundred dollars. His majesty, being informed of the whole transaction, has been pleased to approve, for this time only, the said determination, in consideration of the absolute want of funds in the said province, and commands me to charge you again, as I do charge you, to comply with the provisions of the royal orders of the 14th November of 1804, and of the 31st March, 1806, which prohibit the alienation of the royal lands which was made in favor of foreigners, and which provisions ought to be complied with rigorously in future. This, by order of his majesty, I communicate to your excellency for your knowledge and government."

And I communicate the same to your excellency for the corresponding effect on your part. God preserve your excellency many years. Havana, 4th March, 1815.

APODACA.

His Excellency, the Governor of East Florida.

St. Augustine, 21st November, 1829. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Interpretor of the superior court.

And afterwards, at the same of July, in the year of our Lord, one thousand eight hundred and thirty-four, to wit, on Monday the thirty-seventh day of said term, and the fourth day of November, the following entry of record was made in this cause.

CONTINUED FOR FURTHER PROOF.

MARY A. MILLS, AND OTHERS. *against* THE UNITED STATES OF AMERICA. } Land Claim. 10,240 acres.

This case having been heard and submitted to the court, and the court having examined the same, doth order that this cause be continued, with leave to the parties to introduce further proof therein. n-

And afterwards, before the superior court for East Florida, holde at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-five, to which term the cause had come by regular continuance, to wit: on Monday, the fourth day of said term, and the twentieth of said month, the following entry of record was made in this cause, to wit:

FURTHER PROOF OFFERED.

MARY A. MILLS, AND OTHERS
vs.
THE UNITED STATES OF AMERICA. } Land Claim. 10,240 acres.

This day came as well the *the* counsel for the said claimant, as the counsel for the said United States, and this cause having been continued, after the hearing thereof, at the last July term of this court, for further proof; this day offerred and read in evidence in this case, as further proof the testimony of Seymour Picket and John Uptegrove, taken under commission in this case.

[No. 6.]

Being the further proof offered by the claimant, under the leave of the court.

COMMISSION TO EXAMINE UPTEGROVE AND PICKET.

TERRITORY OF FLORIDA.

In the name and by the authority of the United States of America.

To Alexander Graham, and Samuel L. Burritt, Esquires, greeting:

Whereas, a certain claim to land is now depending in the superior court for the eastern district of Florida, in which said cause Mary A. Mills, and others, are claimants, and the United States of America defendant; and it being necessary to the investigation of said cause to have the testimony of John Uptegrove and Seymour Picket; the said Alexander Graham and Samuel L. Berritt, having been named by the said claimants, and the said defendant, as commissioners to examine said witnesses on certain interrogatories:

Know ye, that confiding in your prudence, ability, and integrity, you are, by these presents, appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witnesses upon certain interrogatories to be exhibited to you, as well on the part of the said claimant as on the part of the said defendant, or of either party in said cause; and therefore you are hereby authorized and requested on a certain day, or on certain days, and at certain place or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart, on the said interrogatories, on their corporal oaths

or solemn affirmations, first taken before you; and to take such their examinations and reduce them to writing on paper, and when you shall so have taken them, to sign the same with your name, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

And you are hereby further requested that, before you act in or be present at the swearing or solemn affirming and the examining of any of the said witnesses, you do make oath or solemn affirmation, that, according to the best of your knowledge, you will truly, faithfully, and without partiality to any or either of the parties in said cause, take the examination and deposition of every witness, produced and examined by virtue of this commission, upon the interrogatories hereunto annexed and produced to you; and that you will not publish or make known to any person whomsover, except the clerk or clerks who may by you be employed and sworn to secrecy in the execution of this commission, the contents of any of the depositions of the witnesses, to be taken by you in this commission named, until publication shall pass by rule or order of said superior court.

Witness, the honorable Robert Raymond Reid, judge of our superior court for the district of East Florida, this twenty-seventh day of December, A. D. 1834.

[SEAL.] K. B. GIBBS, *Clerk.*

INSTRUCTIONS.

When the testimony is taken, the commissioner is required to sign his name at the bottom of each sheet of the depositions, and the whole, after fixing and sealing the several sheets together; then to enclose the whole examination, commission and all, in an envelope, sealed up, with your name written on the outside across the seal, and to endorse the packet, on the corner thereof, with the names of the parties, and to direct the same to Kingsley B. Gibbs, clerk of said court, at St. Augustine, and deliver it to him.

INTERROGATORIES TO UPTEGROVE AND PICKET.

SUPERIOR COURT, *East Florida.*

MARY A. MILLS, William J. Mills, Maria Ann C. Mills, Thomas R. Mills, James G. Mills, and Charles F. Mills, heirs of William Mills, deceased.
vs.
THE UNITED STATES.
} Land Claim. 10,240 acres

Interrogatories to be propounded to John Uptegrove and Seymour Picket, witnesses, residing in Duval county; and who are to be produced, sworn, and examined on behalf of the claimants in the above entitled cause.

First. Do you know the above named claimants, or any of them and which of them?

Second. Was or not the said Mary A. Mills, the wife of William Mills, formerly of East Florida, and are not the other named persons the children of the said William Mills, and Mary A. Mills?

Third. Is the said William Mills dead or alive? If you say he is dead, please to state as nearly as you can, when and where he died.

Fourth. Do you or not know any thing of a grant that was made to the said William Mills for 16,000 acres of land by the Spanish Government, sometime in 1817, situated on the east side of the St. Johns river, at a place called Buffalo, as a mill seat?

Fifth. Do you or not know whether the said William Mills took possession of said land; and if he did, did he not do so shortly after the grant was made to him? Please to state, as nearly as you can recollect, about what time he did take possession of said land?

Sixth. Did he not erect a mill on said land? If you say he did not erect a mill, please to state whether he did not make an attempt to do so? and whether he did not make preparations for doing so? and whether he did not procure mill irons, tools, and other necessary matters for erecting said mill? and whether he did not engage workmen to go on to said land to build said mill? and whether he did not go to very considerable expense in endeavoring to erect said mill?

Seventh. Please to state what prevented said William Mills from prosecuting said work and erecting said mill?

Eighth. What was the condition of the country, shortly after said grant was made to said Mills. Was it in a quiet peaceable state, or was it much disturbed by hostile parties of whites, Indians, and negroes?

Ninth. From your knowledge of the condition and state of the country, do you think it was safe for a peaceably disposed citizens to live at that time in that part of the country where this land is situated?

Tenth. Was or was not William Mills obliged to desist from further efforts to erect said mill, by the dangerous state of that part of the country? and do you think that, at the time he ceased his operations there, he could have continued them with any security?

Eleventh. How long did this unsettled and disturbed state of things continue?

Twelfth. Did not the said William Mills die sometime in January, 1818? If yea, say whether all his children were not quite young at the time of his death; and whether any of them were in a condition to go on and erect said mill?

Thirteenth. If there is any other matter or thing important or material to be known by the said claimants, please to state it as fully as if thereto specially interrogated.

B. A. PUTNAM,
Claim'ts Att'y.

Cross interrogatories to be propounded, on behalf of the United States, to John Uptegrove and Seymour Picket, the witness above named.

First. The United States, by their counsel, object to the 4th direct interrogatory, because it is leading, and because it is attempting

thereby to prove certain matters, which (if they exist) ought to be proved by other and higher evidence. The said United States also object to the 5th interrogatory, because it is irrelevant, and to the 6th, because it is both leading and irrelevant, and to the 7th, 8th, 9th, 10th, 11th, and 12th, because they are also irrelevant.

Second. If you answer the 5th direct interrogatory in the affirmative, please to state how you know the said William Mills, took possession of the said tract of land. Did you ever see him on said tract of land? If you did, when was it; what was he doing thereon, and who else was there at the time?

Third. If you say that the said William Mills made an attempt to build a mill on said land, please to state how you know said facts? Who told you? Have you any knowledge that he did so, except what you obtained from his own statements, and the statement of others; and what?

Fourth. If you undertake to say what prevented the said William Mills from prosecuting said work, please to state how you know the facts about which you attempt to testify in relation to this matter. Have you any knowledge of them, except from his own statements? If you have, please to state from whom you derived such knowledge.

Fifth. Was not the condition of the country the same shortly before, and at the time, when it is pretended and alleged that said supposed grant was made, as it was shortly afterwards?

Sixth. If you answer the tenth direct interrogatory in the affirmative, please to state how you know, and who told you that the said William Mills was obliged to desist from further efforts to erect said mill, by the dangerous state of that part of the country.

Seventh. Please to state when the said William Mills departed this life, (if he be dead) what children he left at his death, and the age of each of the said children, at the time of his death, and which of the said children are now living; and which of them, if either, now reside in East Florida?

Eighth. Is there any other matter or thing, important to be known to the said United States within your knowledge? If there is, please to state it, as fully and particularly as though you were now thereunto specially interrogated?

THOS. DOUGLAS,
U. States Att'y. &c.

TERRITORY OF FLORIDA—*Duval County.*

Personally appeared before me, Alexander Graham and Samuel L. Burritt, the commissioners named in the commission hereunto annexed, to take the testimony of John Uptegrove and Seymour Picket, in the case of Mary A. Mills, and others, vs. the United States; who, being duly sworn, do make solemn oath, and say that, according to the best of their knowledge, they will truly, faithfully, and without partiality, to any, or either of the parties in said cause, take the examinations and depositions of the witnesses named in said commission, when the same may be produced for examination; and that they will not publish or make known to any person, whomsoever, the contents of any of the depositions of the witnessss, so taken, until

publication shall pass by rule or order of the superior court, in said commission mentioned.

S. L. BUKRITT,
ALEX. GRAHAM.

Sworn to before me, this 31st day of February, 1835.

ISAIAH D. HART,
Clerk Superior Court.

ANSWERS OF PICKET.

Seymour Picket, one of the witnesses named in the annexed commission, after being duly sworn, answers as follows;

First. To the first interrogatory, the witness answers, that he knows all of them.

Second. To the second interrogatory, the witness answers in the affirmative.

Third. To the third interrogatory, the witness answers, that he is dead; he died at Fernandina, in the year 1818.

Fourth. To the fourth interrogatory, the witness answers, that the said Mills informed him, repeatedly, that the Spanish Government granted him a tract of land called Buffalo, on the St. Johns river, as compensation for services rendered as King's armorer, in St. Augustine.

Fifth. To the fifth interrogatory, the witness answers, that he knows nothing of it.

Sixth. To the sixth interrogatory, the witness answers, that the said Mills told deponent that he had all the mill-irons prepared for the work, but whether he actually commenced operations or not, witness does not know; and being a mill-wright myself, said Mills asked me to undertake the business, but no positive engagements were entered into, and told him I would do so when I conveniently could.

Seventh. To the seventh interrogatory, witness answers, that he does not know.

Eighth. To the eighth interrogatory, the witness answers, that the country, from the years 1812 to 1818, was in a very unsettled state.

Ninth. To the ninth interrogatory, witness answers: Not at all.

Tenth. To the tenth interrogatory, the witness answers, that he knows nothing than what is stated in the previous answer; but if it had even been his wish he could not have done so, from the disturbed state of the country.

Eleventh. To the eleventh interrogatory, the witness answers: To the latter end of the year 1818.

Twelfth. To the twelfth interrrogatory, the witness answers, that he cannot state exactly the month said William Mills died, but thinks it was in the winter of 1818; the children were all young, and not in a condition to go on with the mill.

Thirteenth. To the thirteenth interrogatory, witness answers, that he knows nothing further.

First. To the first cross interrogatory, the witness answers, that it is beyond his jurisdiction.

Second. To the second cross interrogatory, the witness has answered in the fifth direct interrogatory.

Third. To the third cross interrogatory, the witness answers, that he knows nothing more than from his own statements.

Fourth. To the fourth cross interrogatory, the witness answers, that he knows nothing but what is stated in the tenth direct interrogatory.

Fifth. To the fifth cross interrogatory the witness answers, that it was the same.

Sixth. To the sixth cross interrogatory, the witness has answered in the tenth direct interrogatory.

Seventh. To the seventh cross interrogatory, the witness answers, that the said William Mills died in 1818; that he thinks he left seven children, but is not positive, but thinks there were four sons and three daughters; that, to the best of my recollection, Wm. J. Mills, the eldest son was about twenty years of age, Maria Ann C. Mills, about seventeen, Charles F. Mills, about fifteen, and the names of the rest of the children witness does not recollect, but they are all younger. Wm. J. Mills and Maria Ann C. Mills, are at present living at Jacksonville, East Florida, and the rest of the children, does not know where they are at present.

Eighth. To the eighth cross interrogatory, the witness answers, that he knows nothing more of the matter.

SEYMOUR PICKET.

ALEX. GRAHAM, } *Commr's.*
S. L. BURRITT, }

ANSWERS OF UPTEGROVE.

John Uptegrove, one of the witnesses named in the annexed commission, after being duly sworn, answers as follows:

First. To the first interrogatory witness answers, that he knows them all.

Second. To the second interrogatory the witness answers, that they always passed for it.

Third. To the third interrogatory, the witness answers, that he is dead: does not recollect precisely when he died, but believes it was in the year after the Carthegenians were in Fernandina.

Fourth. To the fourth interrogatory, witness answers, that he knows nothing about the grant, except what was told him by William Mills.

Fifth. To the fifth interrogatory, witness answers, that he believes that he did take possession of the land in question; witness was under the impression that it was in the year 1814, but if the grant was not made till 1817, he must be mistaken; at all events, think it but a short time after the grant was made.

Sixth. To the sixth interrogatory, witness answers, that he did not erect on said land; he did make an attempt to do, and make preparations to do so, he did procure mill-irons, tools and other necessary matters for erecting the said mill; does not know whether he engaged workmen to build said mill, but rather thinks he did; he went to considerable expense in endeavoring to erect said mill.

Seventh. To the seventh interrogatory, witness answers, that the disturbance with the Indians prevented said William Mills from erecting said mill; the Indians were too troublesome.

Eighth. To the eighth interrogatory, witness answers, that shortly after the grant was made, as well as at the time and before the grant was made, the country was in confusion, and disturbed by hostile parties of whites, negroes, and Indians.

Ninth. To the ninth interrogatory, witness answers, that it was by no means safe.

Tenth. To the tenth interrogatory, witness answers, that the said William Mills, on account of the disturbed state of the country, was obliged to desist from his efforts to erect said mill; thinks he could not have continued there with any security at all.

Eleventh. To the eleventh interrogatory, witness answers, that this disturbed state of things continued from 1812 till 1820; there was always some interruption.

Twelfth. To the twelfth interrogatory, witness answers: It is likely he did die in 1818, but cannot recollect the year, thought it was in 1821 or 1822, but cannot say for certain; all the children of the said William Mills were quite young, excepting his son William J. Mills, at the time of his, the said Mills's death; none of the said children were in a condition to go on and erect said mill.

Thirteenth. To the thirteenth interrogatory, witness answers, that he knows nothing further; all he knows is, that it was impossible for him to go and build his mill at that time with safety.

Second. To the second cross interrogatory, witness answers, that he never saw said Mills on said tract of land, but that he saw him at his house at Fernandina, when he said that he had been to the tract and had just returned; never saw him take possession of the land, but was informed so by said Mills.

Third. To the third cross interrogatory, witness answers, that he saw the mill-irons that were intended for said mill, and that he worked in the shop with said Mills, and helped him to make some of them.

Fourth. To the fourth cross interrogatory, witness answers, that he knows, from his own knowledge, the existence of the causes that prevented said Mills from erecting said mill; was out frequently in pursuit of Indians himself.

Fifth. To the fifth cross interrogatory, witness answers in the affirmative.

Sixth. To the sixth cross interrogatoay, witness answers, that he knows it by experience.

Seventh. To the seventh crosss interrogatory, witness answers, that said Mills left, at his death, the following children, viz: Wm. J. Mills, Maria Mills, Thomas R. Mills, Charles Mills, James Mills; does not know what their ages were at the time of their father's decease; William J. Mills and Maria Mills now reside in East Florida.

Eighth. To the eighth cross interrogatory, witness answers, that he does not know that he knows any thing further.

JOHN UPTEGROVE.

SAMUEL L. BURRITT, *Commissioner.*

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-five, to wit, on Tuesday, the eleventh day of said term, and the twenty-eighth of said month, the following entry of record was made in this cause, to wit:

CAUSE SUBMITTED.

MARY A. MILLS, AND OTHERS *vs.* THE UNITED STATES OF AMERICA.	Land claim.	10,240 acres.

This day came as well the counsel for the said claimants as the counsel for the said United States, and this claim was submitted to the court for its decree thereon.

And afterwards, before the superior court for East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday the fourth day of said term, and the twenty-fourth of said month, the following *decree* of *confirmation* was entered of record in this cause, to wit:

DECREE OF CONFIRMATION.

MARY A. MILLS, widow of William Mills, deceased, William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of the said William Mills, dec'd *against* THE UNTED STATES OF AMERICA.	Land Claim.	10,240 acres.

Whereas, Mary A. Mills, widow of William Mills, deceased, and William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of the said William Mills, deceased, did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and conformation of private land claims in Florida," and approved 23d day of May, 1828, on the 17th day of April, 1829, file their petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court for the eastern district of Florida; and afterwards, on the 23d day of July, 1834, file their amendment to the said petition. And *whereas*, the attorney of the United States, for said district, did duly appear and file his answer, and amended answer to the said petition, and afterwards file his answer to the amendment to the said petition; and this cause having been heard, and evidence and argument of counsel, as well on the part of said claimant, as on that of the U. States, having been offered and submitted to the court, and the court having examined the claim of the said petitioners, and the answers of the attorney of the U.

States, together with the exhibits and evidence filed in this cause, and having maturely considered the same, *doth* order, *adjudge* and *decree*, that this claim is *valid;* and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "Treaty of amity, settlement and limits between the United States of America and the King of Spain," ratified by the President of the United States, on the 22d February 1821, and under and by virtue of the laws of nations and of the United States: it is hereby *confirmed*, *adjudged* and *decreed* to the said claimants, to the extent, for the number of acres, and at the place as in the memorial of the said William Mills, deceased, and the grant of the Governor thereon, is set forth, to wit: "a tract of land of two miles square on the river St. Johns, on the east side thereof, and at the place called Buffalo Bluff, about two miles below the plantation and stores of Panton, Leslie, & Co. Said tract will contain two miles on each wind, so that it may form a square of four miles."

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday the eleventh day of said term, and the eleventh day of the month of September, the following appeal was entered of record in this, cause to wit:

APPEAL.

THE UNITED STATES OF AMERICA, *ads.* MARY A. MILLS, AND OTHERS. } Land Claim. 10,240 acres.

This day came as well the attorney of the United States, for this district as the solicitor for the said claimants, and the said attorney of the United States moved the court that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellees, and that the same may be served by the marshal of said district upon the said appellees, or their solicitor or agent, and returned to this court within thirty days from the issuing thereof; all of which is ordered accordingly.

In pursuance of the above order a citation of appeal was duly issued and served by the marshal of this district; which said citation, and the return of the said marshal thereon, are in the words and figures following, to wit:

CITATION OF APPEAL AND RETURN.

In the name and by the authority of the United States of America.

To Mary A. Mills, widow of William Mills, deceased, William J. Mills, Charles F. Mills, Maria Ann C. Mills, Thomas R. Mills, and James G. Mills, children and heirs of the said William Mills, deceased, or to their agent, attorney or solicitor, greeting:

You are hereby cited admonished that an appeal has been taken, on the part of the United States, from the decree of the superior court of East Florida to the Supreme Court of the United States, in a certain claim to ten thousand two hundred and forty acres of land, wherein you, the said Mary A. Mills, and others are claimants, and the United States respondent; and that record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

Witness, the honorable Robert Raymond Reid, judge
[SEAL.] of our said court, at the court house, in the city of St. Augustine, this 12th day of September, A. D. 1837.

K. B. GIBBS, *Clerk.*

THOS. DOUGLAS,
District Attorney.

B. A. PUTNAM, *Solicitor for claimants.*

Executed by delivering a copy of this process to B. A. Putnam, September 13th, 1837.

JOHN M. FONTANE,
Deputy Marshal.

SUPERIOR COURT—*District of East Florida*:

I, Kingsley B. Gibbs, clerk of the said court, for the district aforesaid, do hereby certify, that the foregoing sixty-nine pages contain a full, true, and complete transcript of the record and proceedings had in the case therein named, in my charge.

In witness whereof, I have hereto set my hand, at the city of St. Augustine, this third day of November, one thousand eight hundred and thirty-seven.

K. B. GIBBS, *Clerk.*

By the honorable Robert Raymond Reid, judge of the superior court for the district of East Florida,

To all to whom these presents shall come, be seen, or make known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida; that all due faith and credit are and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereto set my hand, and caused the seal of the said court, to be hereunto affixed, this third day of November, A. D. 1837, and of the independence of the United States of America the sixty-second year.

[SEAL.] ROBT. RAYMOND REID.